UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	E.D. Mo. No. 4:17 MJ 95 DDN
JUAN THOMPSON,	)	S.D. N.Y. No. 17 MAG 1532
	)	
Defendant.	)	

DETENTION ORDER

This action came before the court on March 8, 2017 for a detention hearing on the motion of the United States that defendant Juan Thompson be detained before trial under the Bail Reform Act of 1984, 18 U.S.C. § 3142. (ECF No. 2). Juan Thompson had been arrested in this federal judicial district as the person[1] charged by complaint, filed on March 1, 2017, in the United States District Court for the Southern District of New York in Case No. 17 MAG 1532. Upon that complaint, United States Magistrate Judge Sarah Netburn signed an arrest warrant for the defendant known as Juan Thompson.

The complaint charges defendant with cyberstalking, in violation of Title 18, United States Code, Sections 2 and 2261A(2). The complaint includes 8 pages of facts, attested to by Special Agent Christopher Mills, Federal Bureau of Investigation. The preliminary examination in this district on the complaint, upon motion of the government, was reset to March 15, 2017.

At the detention hearing, the court received the written report of the Pretrial Services Office (ECF No. 8), the testimony of FBI Special Agent Jennifer Lynch, and proffers of information and arguments by counsel for the parties.

The Bail Reform Act places upon the government a substantial burden of proof regarding whether a person should be detained:

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[1] At the initial appearance, held on March 3, 2017, defendant did not admit his identity, as that is an element of the government's case against him. *See* Fed. R. Crim. P. 5.1(e). The government in response at that time proffered that the individual arrested and brought before the court was the person against whom the pending complaint had been filed in the Southern District of New York. On that basis, the court addressed the arrestee by the name alleged in the complaint and refers to him by this name in this detention order.

> Only if the government shows by clear and convincing evidence that no release condition or set of conditions will *reasonably assure* the safety of the community and by a preponderance of the evidence that no condition or set of conditions under subsection (c) [of 18 U.S.C. § 3142] will *reasonably assure* the defendant's appearance can a defendant be detained before trial.

United States v. Kisling, 334 F.3d 734, 735 (8th Cir. 2003) (quoting *United States v. Orta*, 760 F.2d 887, 891 & n.20 (8th Cir. 1985) (en banc)). The factors to be considered in the court's decision include the nature and circumstances of the offense alleged, the weight of the evidence against the defendant, his history and personal background, whether at the time of the offense he was subject to release supervision, and "the nature and seriousness of the danger to any person or the community that would be posed by the person's release." 18 U.S.C. § 3142(g).

The court finds that Juan Thompson is 32 years of age. He has lived most of his life in this district. However, he has lived also in New York several periods between his ages 19 and 31. He has also lived in Chicago, Minnesota, and Iowa. He has a passport and has traveled to Mexico, Canada, Jamaica, Rome, and the Dominican Republic. He has nine siblings who reside in Missouri. He has been employed in various capacities since 2014, but lost his job in 2016. He has achieved a college degree. He reported being diagnosed with anxiety for which he was prescribed medication. He reported daily use of alcohol, but no use of illicit drugs within the last year. Aside from the allegations in the pending federal complaint, Thompson has no criminal record. If he were released on an appearance bond, he would live with his family members at their residence in this district.

The allegations in the pending complaint are very serious. These allegations include defendant communicating on the internet between July 2016 and March 2017 to intimidate, threaten, and harass, with emotional violence, another person (Victim), whom defendant knew and who resides in New York, thereby causing Victim and others substantial emotional distress. This activity included sending false, threatening, and defamatory text and email messages and photos to Victim and to third parties about Victim. Defendant also sent false communications, attributed to a family member, on defendant's behalf, denying his involvement in the harassing communications. From August 2016 to February 2017, defendant was under state court orders of protection on behalf of Victim. After being warned by law enforcement in November 2016 to stop his activities regarding Victim, defendant in January and February 2017 used internet social media and telephone calls to make threats of violent actions to third parties purportedly in Victim's name and others in his own name that he attributed to Victim. The hearing record includes information that, after a news article was published charging defendant with posting false news stories, the author of the news article received threats.

Defendant seeks release on an unsecured[2] appearance bond. Further, defendant agrees to participate in a location monitoring program residing at his parents' home in this district, where he had resided, from which all firearms and digital devices have been removed. The government argues that these measures would be insufficient as conditions of release to prevent defendant from obtaining other digital devices with which to make more threatening communications, thereby victimizing more persons.

From the record before it, the court finds and concludes by clear and convincing evidence that the release of defendant Juan Thompson upon his own recognizance, an unsecured appearance bond, or any condition or combination of conditions of release will not reasonably assure the court that he will not endanger the safety of any other person or the community, if released. 18 U.S.C. § 3142(b), (c). Considering the factors considered relevant by the Bail Reform Act, the nature and circumstances of the charged offense involve allegations of many communications of threats of emotional and physical violence to Victim and others over a substantial period of time. The weight of the evidence against defendant, as described during the hearing, is substantial. While the alleged allegations did not occur while defendant was under official release supervision, *see* 18 U.S.C. § 3142(g)(3)(B), during the period of the unlawful activity, he was subject to court orders which he allegedly violated. And the allegations against him indicate his release could pose a serious danger to Victim and to others in the community.

Placing defendant in the custody of his family in the residence where his alleged internet activity originated would not reasonably assure the court that defendant would not continue to use the internet and other communication media as he had in the past. This is true, also because defendant continued his unlawful activity while under judicial orders of protection and after being warned by law enforcement to stop. The court believes he would continue such activity, if released by this court on any condition or combination of conditions. Similarly, while location monitoring might encumber his ability to flee, given his history of continued activity when directed by judicial process and law enforcement not to do so, location monitoring would not reasonably protect against the unlawful activities described in the complaint and in the evidence before the court.

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[2] The Bail Reform Act provides that the court "may not impose a financial condition that results in the pretrial detention of the person." 18 U.S.C. § 3142(c)(2).

Therefore,

IT IS HEREBY ORDERED that the motion of the United States to detain defendant Juan Thompson (ECF No. 2) **is sustained**. Defendant is committed to the custody of the Marshals Service until further order.

IT IS FURTHER ORDERED that defendant be confined in a corrections facility, separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

IT IS FURTHER ORDERED that defendant be allowed reasonable opportunity for consultation with counsel and with defense counsel's retained investigator, paralegal, or other retained expert consultant.

IT IS FURTHER ORDERED that on order of a court of the United States or on request of an attorney for the United States, the person in charge of the corrections facility in which defendant is confined must deliver defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

/S/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on March 13, 2017.